

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ROBERT PIPER,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 05-341-SLR
)	
D.O.C. RICK KEARNEY and)	
DAVID JACOBS D.O.C.,)	
)	
Defendants.)	

MEMORANDUM ORDER

At Wilmington this ~~30th~~ day of September, having reviewed plaintiff's complaint and finding that his claims are not frivolous under 28 U.S.C. § 1915A(b);

IT IS ORDERED that:

1. The Clerk of Court shall cause a copy of this order to be mailed to the plaintiff.

2. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff shall complete and return to the Clerk of Court an original "U.S. Marshall 285" form for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). Plaintiff is notified that the United States Marshal will not serve the complaint until the "U.S. Marshal 285" form has been received by the Clerk of Court. **Failure to provide the "U.S. Marshal 285" form for the attorney general within 120 days of this order may**

result in the complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).

3. Upon receipt of the form required by paragraph a above, the United States Marshal shall forthwith serve a copy of the complaint, this order, a "Notice of Lawsuit" form, the filing fee order, and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

4. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this action unless the documents reflect proof of service upon the parties or their counsel. The clerk is instructed not to accept any such document unless accompanied by proof of service.


United States District Judge